

# GAMING UPDATE

Volume 14, Edition 1

January 2000

## A Word From the Administrator.....

### STATE OF NEBRASKA



Mike Johanns  
Governor

DEPARTMENT OF REVENUE

Mary Jane Egr  
Tax Commissioner

CHARITABLE GAMING DIVISION

Jean Angell  
Administrator

January 2000

Dear Gaming Licensees:

It is a humbling experience for me to assume the duties of Charitable Gaming Division Administrator. Jim Bogatz was an administrator who lived and breathed charitable gaming. It will take some time for me to fill his shoes.

Though I serve as Administrator of the Division, the Charitable Gaming employees don't work for me. Rather, their efforts are for you, the licensees and citizens of the State. I am continually inspired by the staff's exceptional knowledge and abilities, and the amazing effort they put forth to assist those persons who have contact with the Division. The fifteen Division employees have served charitable gaming for a combined total of over 131 years! Their familiarity with the industry is acknowledged throughout North America. They truly are a wellspring of information which I hope you continue to access.

The face of charitable gaming in Nebraska has changed over the years. Technology has advanced and interests have changed. The casinos floating on the Missouri, as well as illegal gaming throughout the state, batter charitable gaming. However, because charitable gaming provides a means for the financial survival of many nonprofit organizations, and because so many of you willingly assist those organizations in conducting fair and enjoyable games, charitable gaming will survive. The Division continues to plan how we can best support you, but in order to do so, we need to hear from you. Please contact us with your ideas, questions or concerns because remember we are here to serve you, the licensees and taxpayer of Nebraska.

FOR THE TAX COMMISSIONER

Jean Angell  
Administrator

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## Unauthorized Use of Paddle Tickets and Roulette Wheels

### *Is your organization in violation?*

It has come to the attention of the Charitable Gaming Division that many organizations may be operating illegal games of chance on their premises by selling “paddle tickets” and utilizing a numbered spinning wheel to award merchandise and sometimes even cash prizes. Also known as “Meat Wheels, Cash Wheels, Color Wheels, Card Wheels, Lucky 7’s or Slot Wheels,” these wheels are **illegal in Nebraska** when they are used in a game of chance where prizes are awarded and consideration has been charged in order to participate.

This matter came to light recently when an organization attempted to purchase paddle tickets from one of our licensed distributors. The distributor was reluctant to sell the organization the tickets knowing that the organization intended to utilize them in conjunction with a spinning wheel game. The distributor advised the organization to contact the Charitable Gaming Division regarding the legality of their intended use for the paddle wheel tickets. The organization was advised by the Division to

discontinue selling paddle wheel tickets if anything other than a random drawing of the tickets was being used to determine prize winners. By doing so, the organization could be **jeopardizing its gaming and liquor licenses**.

The Division has authorized paddle tickets alone to be used to conduct a small lottery (ticket sales not exceeding \$1,000) or a small raffle (ticket sales not exceeding \$5,000), whereby the tickets are sold to participants and then a random drawing (either of the tickets themselves or corresponding numbered objects) is held. **However, paddle tickets are not authorized when sold in connection with any other game of chance in Nebraska.** If your organization is conducting an activity utilizing the sale of paddle tickets and a spinning wheel to determine winners, you should discontinue this activity immediately. You may contact Deb Weber of the Charitable Gaming Division at (402) 471-5944 if you need additional information or assistance regarding this subject.

## NEBRASKA DEPARTMENT OF REVENUE

STATE TAX COMMISSIONER — MARY JANE EGR

Charitable Gaming Division Administrator — Jean Angell

Charitable Gaming Division Managers — Steve Schatz, Policy/Licensing  
Gerald Otoupal, Audit

### WHO TO CONTACT FOR . . . . .

#### Audits, Annual and Quarterly Reports, and Tax Returns

Gerald Otoupal	471-5940
Gene Weiner	471-5953

#### Pickle Card Receipt Books

Mary Gropp	471-5937
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#### Licenses, Authorizations, Permits, Device Decals, and Forms

Chris Schweitzer	471-5939
Carri Fitzgerald	471-5949

#### Bingo, Pickle Card, and Lottery/Raffle Game Conduct

Deb Weber	471-5944
Steve Schatz	471-5943

#### County/City Lottery Licensing and Game Conduct

Steve Schatz	471-5943
Linda Knox	471-5945

#### County/City Lottery Audit and Tax Returns

Gerald Otoupal	471-5940
Pete Andersen	471-5936

#### Investigations, Complaints, and Fingerprints

Greg Schnasse	471-5941
Mike Olsen	471-5948

#### Inspections

Merle Reiling	471-5947
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#### Legal Proceedings

Cynthia Odabasi	471-5817
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Visit our Web site at: [www.nol.org/revenue](http://www.nol.org/revenue)

## Annual Dispensing Device Registration Reminder

**Do you have your new year 2000 dispensing device registration decal(s)?** If you sell pickle cards through a coin- or currency-operated dispensing device, the new 2000 decal should already be on your device. **If not, the dispensing device cannot be used until you have received the proper decal.** No pickle cards can be legally sold from a dispensing device that is not properly registered with the Department. **Inspectors from the Department's Investigation Division will be performing on-site compliance checks to insure that all dispensing devices in use are properly registered for the year 2000.** Anyone using a dispensing device without a current registration decal affixed to it is **subject to a \$30 penalty** for each device not properly registered. The year 2000 decal has a silver background with black lettering.

The annual dispensing device registration fee is \$50 per device. **The responsibility for registering a device depends on where the device is being used.** If a device is used at the location of a licensed pickle card operator, the responsibility lies with the pickle card operator even though the device may not be owned by the pickle card operator. If a device is used at the designated premises of a licensed organization or at its regularly scheduled bingo occasion, the licensed organization is responsible for registering the device.

In mid-October, the Department mailed preidentified Pickle Card Dispensing Device Renewals, Form 50F, to each licensed pickle card operator and licensed organization that renewed its 1999/2000 license and had registered a device during 1999. To be considered timely filed, the renewal form should have been submitted to the Department on or before November 15, 1999. Reminder notices were mailed on November 8<sup>th</sup> to those businesses and organizations which had not yet filed their registration renewal forms. **If you did not receive a registration renewal form or you need additional forms, please contact the Charitable Gaming Division at (402) 471-5937.** The Nebraska Registration and Report of Pickle Card Dispensing Device, Form 50F, and Instructions for Completion are also available at our Web site. Type [www.nol.org/revenue](http://www.nol.org/revenue) and click on "Charitable Gaming".

**It is also important that you keep us informed throughout the year of any changes associated with the use of a dispensing device at your location.** If the

ownership of a business licensed as a pickle card operator changes and the dispensing device is to be retained by the new ownership, a Form 50F must be filed with the Department by the new ownership to re-register the device. If applicable, a copy of the new lease agreement must also be included. The registration fee of \$50 will not be required under these circumstances. **If a dispensing device has been replaced, the replacement device must be registered with our office prior to its use.** If applicable, a copy of the new lease agreement must also be included. The registration fee of \$50 is required under these circumstances unless the device is a temporary replacement. A temporary replacement device may not be used for more than 30 days. The installation of a temporary replacement device must be reported to the Department within five working days of the date the device was placed into service.

## Staffing Change

A couple of staffing changes have taken place in Charitable Gaming since the last edition of our newsletter. First, the **Charitable Gaming Administrator** position vacated by the departure of Jim Bogatz has been filled by **Jean Angell**. Jean may already be familiar to some of you, as she has served for the past two years as the legal counsel for both the Gaming Division and the Department's Personnel office. Prior to coming to the Department of Revenue, Jean was a Legislative Aide to Senator Wickersham. Jean also served as a Deputy County Attorney in Madison County for five years prior to her duties at the Statehouse. Although we will miss Jim Bogatz, we feel very fortunate to have someone like Jean on board who is knowledgeable in the gaming area. Jim, by the way, is still with the Department but is now serving as a manager in the Legal Division.

Also joining the Charitable Gaming Division as its new legal counsel is **Cynthia Odabasi**. Cynthia has been employed by the State of Nebraska for the past 3 years. She began in July 1996 as a Legislative Aide to Senator Chris Beutler. In November of 1997 she accepted a position with the Nebraska Department of Health and Human Services Child Support Enforcement Unit as a Program Specialist, where she was responsible for a wide range of policy areas as well as drafting legislation, rules and regulations. Cynthia, who received a joint MBA/JD degree with distinction from the University of Nebraska, has lived in Lincoln most of her life but has also resided in Columbus and Broken Bow. Cynthia's legislative experience will no doubt be a valuable asset for the Charitable Gaming Division!

## Dispensing Device Study Group Update

In the June 1998 issue of the Gaming Update we advised you that the Tax Commissioner had appointed a study group to review various regulatory aspects of the use of coin- and currency-operated pickle card dispensing devices and make recommendations to the Department and the Legislature regarding ways to improve the regulation of such devices. Since some time has elapsed since we initially reported this information, many of you are probably wondering about the outcome of this undertaking and any recommendations which were made by the study group. The study group met on two different occasions and **considered** the following proposals:

- Licensed organizations could only purchase pickle card dispensing devices through a licensed manufacturer-distributor. Licensed pickle card operators could only purchase dispensing devices from a licensed organization or a licensed manufacturer-distributor. ***Requires Legislative Change***
- Change the license registration period for pickle card dispensing devices to coincide with the same period as the pickle card operator's license. ***Requires Legislative Change***
- Allow the transfer of a pickle card dispensing device between pickle card operator locations without additional fees when the locations have the same ownership. ***We are administratively accommodating this situation already, but need to incorporate this concept into existing regulations.***
- Consider prorating registration fees when a dispensing device is relocated during license year from one location to another location with different ownership. ***Requires Legislative Change***

The following two alternatives were considered by the Study Group to eliminate existing problems in the determination of fair market value as it relates to the sale and lease of dispensing devices by a licensed organization to a licensed pickle card operator:

- Require a minimum monthly rental amount for pickle card dispensing devices leased from a

licensed organization to a licensed pickle card operator. The minimum monthly rental amount would be based on the numbers of columns in the dispensing device.

### **Example - Minimum Monthly Rental Amount (based on number of columns)**

One to three columns	\$15 per month or some other designated amount
Four to six columns	\$30 per month or some other designated amount
Seven to nine columns	\$45 per month or some other designated amount

- Allow a licensed organization to provide a dispensing device to a licensed pickle card operators free of charge. ***Requires Legislative Change***

**This year is a short legislative session (60 days) and the Department will be unable to pursue any of the aforementioned changes which require enabling legislation.** However, the Department does intend to further explore the concept of basing the minimum fair market value monthly rental of the dispensing device on the number of columns in the device. We will either develop a revenue ruling to address this issue or revise the existing Lottery by Pickle Card Regulation on Dispensing Devices (Regulation 35-316). We would like to thank all of the individuals who participated in the Study Group for their time and efforts.



## Pickle Card Dispensing Devices — Allowable Service and Maintenance Programs for Pickle Card Operators

The Charitable Gaming Division would like to remind all nonprofit organizations holding a Class II pickle card license that performing certain services for pickle card operators with respect to pickle card dispensing devices **are allowed**. The following services can be provided to existing pickle card operators, and may be offered as part of a solicitation of new accounts to sell your organization's pickle cards:

- ✓ Opening dispensing devices, removing money, and counting the gross receipts in the device for deposit;
- ✓ Preparing bank deposits for the pickle card operator;
- ✓ Making bank deposits for the pickle card operator;
- ✓ Accounting for and reconciling the pickle cards in the dispensing device;
- ✓ Recording the meter readings of the dispensing device; and
- ✓ Reconciling the prize payouts from the pickle card operator's cash register to the actual winning pickle cards retained by the pickle card operator.

In allowing for these services, the Charitable Gaming Division also provides that Class II organizations adhere to the following restrictions:

- ✓ **Only a licensed sales agent** is allowed to perform these additional services.
- ✓ **The organization may not charge a pickle card operator for these services** nor may a pickle card operator voluntarily pay the organization or a sales agent for these services.
- ✓ **A sales agent is still limited** to a maximum commission of four percent of the definite profit. Reimbursement to a sales agent for reasonable and necessary expenses incurred in the performance of these services is permissible to the extent that the licensed organization does not exceed the overall eight percent of definite profit limitation on expenses. A sales agent **must maintain detailed**

records of his or her travel and related expenses. Actual reimbursement is subject to approval of the licensed organization.

**Providing these additional services to a pickle card operator is optional.** However, if your organization chooses to do so, the restrictions stated above apply. This authorization is applicable only to those additional services specifically identified above.

### Service and Repair of Coin- or Currency-Operated Pickle Card Dispensing Devices

**If you are leasing or renting pickle card dispensing devices to a pickle card operator** which sells your organization's pickle cards, it is permissible for your organization to service and repair such devices. All costs experienced by your organization, if not reimbursed by the pickle card operator, are considered expenses of operating the lottery and **must be accounted for in the eight percent of definite profit limitation on expenses.**

If a pickle card operator which sells your organization's pickle cards owns a dispensing device, it is permissible for your organization to service and repair such device, provided:

- ✓ **A written agreement** is executed between your organization and the pickle card operator setting forth all terms and conditions under which the service and repairs will be provided. The agreement must set forth all costs associated with the service and repairs and such costs must not be less than fair market value. All agreements for the service and repair of pickle card dispensing devices are subject to review and approval by the Department of Revenue.

**Additional questions regarding the sale or rental of pickle card dispensing devices can be directed to Gerald Otoupal of the Charitable Gaming Division at (402) 471-5940.**



## Administrative and Court Actions

The following cases reached final administrative determination or court decision since the last issue of *Gaming Update*.

**Central States Foundation v. Balka**, 256 Neb. 369, 590 N.W.2d 832 (1999). This case arose as a result of the Department's audit of the licensee Youth Athletic Association. During the course of that audit, the Department requested records from Central States Foundation, a donee of Youth Athletic Association, to determine whether the donations were used for a lawful purpose. Central States attempted to enjoin the Department from obtaining the records on the basis that Central States is an entity not licensed under the Nebraska Pickle Card Lottery Act. The supreme court ruled that the Department may audit the records of an organization which is not licensed to sell pickle cards but does receive pickle card revenues from a licensee. The court's opinion was filed March 5, 1999.

**In the Matter of RTBS, Inc. d/b/a Round the Bend Saloon – South Bend**, Docket Number 98-065-35G. This case involved allegations that this pickle card operator had violated the Nebraska Pickle Card Lottery Act. The Department brought an action to deny RTBS's application for a pickle card operator license for the 1998-99 license period. Prior to formal hearing, the parties reached an agreement whereby RTBS's pickle card license was suspended for nine months. The Department dismissed this action on September 9, 1999.

**In the Matter of La Movida Bar & Grill – Grand Island**, Docket Number 98-090-35G. This case involved an allegation of filing a delinquent pickle card operator license application. Without admitting liability, the organization paid an administrative fine of \$100. The case was dismissed on November 22, 1999.

**In the Matter of La Vista Volunteer Fire Department**, Docket Number 99-005-35G. This case involved an allegation of selling pickle card units to an unauthorized operator. Without admitting liability, the organization paid an administrative fine of \$100. The case was dismissed on June 11, 1999.

**In the Matter of American Legion Post 110 - Dwight**, Docket Number 99-009-35G. This case involved an allegation of selling pickle card units to an unauthorized operator. Without admitting liability, the organization paid an administrative fine of \$100. The case was dismissed on May 27, 1999.

**In the Matter of Z's - Scribner**, Docket Number 99-012-35G. This case involved allegations of possession of an illegal gambling device. The licensee waived hearing and, without admitting liability, served a six month suspension of the pickle card and keno licenses. The case was dismissed March 19, 1999.

**In the Matter of Country Catering, Inc. dba Tomcats Oasis - Murray**, Docket Number 99-014-35G. This case involved an allegation of a pickle card operator selling pickle card units without a license or an authorization. Without admitting liability, the operator paid an administrative fine of \$200. The case was dismissed on June 15, 1999.

**In the Matter of Fraternal Order of Eagles 968 - Nebraska City**, Docket Number 99-015-35G. This case involved an allegation that the organization's Utilization of Funds member was convicted of promoting gambling at the organization's premises. Without admitting liability, the organization's bingo and pickle card licenses were suspended for a period of three months and it paid an administrative fine of \$5,500. The cases were dismissed on May 22, 1999.

**In the Matter of WLP, Inc. dba Thirsty's Bar & Grill - Blair**, Docket Number 99-017-35G. This case involved an allegation that an officer and shareholder of this county/city lottery sales outlet location and pickle card operator had previously been convicted of a felony in violation of both the Nebraska County and City Lottery Act and the Nebraska Pickle Card Lottery Act. The Department brought an action to deny Thirsty's application for a county/city lottery sales outlet location license for the 1998-99 license period. Prior to formal hearing, the parties reached an agreement whereby Thirsty's agreed to obtain a surety bond to protect the city of Blair from possible financial loss. The Department dismissed this action on October 28, 1999.

**In the Matter of Brandin Iron - Beaver City**, Docket Number 99-018-35G. This case involved an allegation that this pickle card operator possessed illegal gambling devices on its premises. Without admitting liability, Brandin Iron agreed to a suspension of its pickle card operator license for six months. The case was dismissed on August 30, 1999.

**Do Hickey's - Omaha**, Docket Number 99-019-35G. This case involved allegations that a licensed pickle card operator was conducting illegal betting pools. Without admitting liability, the operator served a six month suspension of license. The case was dismissed August 18, 1999.

## Gaming and the Legislature — What lies ahead in 2000?



The current legislative session kicked off on January 5<sup>th</sup> and while this is scheduled to be a short (60 day) session, a number of gaming issues may once again be on the agenda. **Interim study hearings related to charitable gaming** in Nebraska were held by the General Affairs Committee this past November. One of the hot topics of discussion at the hearings was the **proliferation of illegal video slot devices** in Nebraska, and the negative effect such devices are having on legal charitable gaming activities. Several parties at the hearing testified that they felt it was time the Legislature took a more serious look at video slot use in Nebraska, along with alternatives to help the declining charitable gaming industry. In addition to new legislation which may be introduced this session, a number of gaming-related bills from last session have been carried over and are still active. Those bills and their status as of the beginning of this session are as follows:

Bill Number	Description	Status
<b>LB 560</b>	Eliminates certain restrictions on the conduct of keno games	General File
<b>LB 647</b>	Charitable Gaming Division technical bill	General File
<b>LB 658</b>	Authorizes a new form of pickle cards called "Bingo Event Tickets"	General File
<b>LB 659</b>	Authorizes electronic pickle card devices	General File

**You can keep yourself informed** as to what is happening in the Nebraska Legislature by logging on to their Web site at [www.unicam.state.ne.us](http://www.unicam.state.ne.us). By clicking on **Unicam Live!** you can watch the Legislature in action. Here are some additional legislative-related phone numbers which you may also find helpful:

Clerk of the Legislature (for hearing schedules and senator info) .....	(402) 471-2271
Legislature Hot Line (for bill status) .....	(402) 471-2709
Legislative Bill Room (for copies of bills) .....	(402) 471-2877

As always, please feel free to contact the Charitable Gaming directly if you have questions regarding gaming-related legislation. We will be happy to assist you with legislative information in any way we can!

### Proposed Biennial Licensing

As part of its legislative package this year, the Charitable Gaming Division will be proposing that **all licenses** for bingo, pickle card and lottery/raffle **be issued biennially** instead of annually as is currently required. This would mean that organizations, utilization of funds members, sales agents, gaming managers, commercial lessors, and pickle card operators would be filling out renewal forms every other year rather than every year. This would also mean that the **licensing fee for a biennial license would be double what is currently charged for an annual license**. Please note that this proposed change does not represent an overall increase in the amount of license fees which your organization or business would experience in renewing its gaming licenses. **The license fees that would be required on a biennial basis are the same amount which your organization or business**

would experience over a two-year period for annual licenses.

***We want to know how you feel about this proposed change before it occurs, so please write or call us.***

**It is our hope and intent** that biennial licensing will be **less burdensome** for our licensees, and also enable the Division to give more attention to the needs of the license applicants. **We need to hear from you** on this matter, as does your local senator. A legislative hearing will be held on this issue (probably in February) before anything moves forward, so if you feel strongly one way or the other regarding biennial licensing, **make your feelings known!** You can plan on attending the hearing and give oral testimony, or you can write to the General Affairs Committee directly. Comments to the Charitable Gaming Division can be sent to P.O. Box 94855, Lincoln, Ne, 68509-4855 or you can call (402) 471-5937.



## Proper Procedures for the Shipping of Pickle Cards Units

**The Charitable Gaming Division has discovered that some confusion exists** relative to the proper procedures which licensed organizations are to utilize when shipping pickle card units to licensed pickle card operators. This article is intended to clarify the options available when an organization chooses to ship pickle card units.

Basically, organizations shipping pickle card units to licensed pickle card operators have only two options:

1. Receive payment for such units prior to the sales agent shipping the units; or
2. Require the common carrier transporting the units to collect a check from the pickle card operator upon delivery of the units.

### **PAYMENT PRIOR TO SHIPPING**

Organizations shipping pickle card units to pickle card operators after they have received a check for the units must have the sales agent complete the Nebraska Pickle Card Unit Sales Invoice and Receipt and attach this to the pickle card unit(s) being shipped. The information which the sales agent must complete prior to shipment includes the organization's name and pickle card operator's name and address; the pickle card operator's state identification number; the date the receipt was completed; the form number, description, serial number, gross proceeds and definite profit of each pickle card unit being shipped; the pickle card operator's commission; the amount the pickle card operator owes; and the total amount collected. The sales agent must sign the receipt and include it with the unit(s) for shipment. Upon receipt of the unit(s), the pickle card operator must complete the remaining portions of the receipt (the date the unit arrived and the check number), sign the portion of the receipt certifying the receipt of the pickle card unit(s), and return a copy of the receipt to the organization's sales agent.

### **CHECK UPON DELIVERY**

Organizations shipping pickle card units to pickle card operators which require a common carrier (such as UPS) to collect a check for the units must have the sales agent complete the Nebraska Pickle Card Unit Sales Invoice and Receipt and attach this to the pickle card unit(s) being shipped. The information which the sales agent must complete prior to shipment includes the organization's name and pickle card operator's name and address; the pickle card operator's state identification number; the date the receipt was completed; the form number, description, serial number, gross proceeds and definite profit of each pickle card unit being shipped; the pickle card operator's commission; the amount the pickle card operator owes; and the total amount of the check to be collected.

**Please note that the pickle card operator's check for payment of the unit(s) must be made payable to the licensed organization from which the pickle card operator is purchasing the unit(s). Checks cannot be accepted which are payable to the common carrier.** The sales agent must include the receipt with the unit(s) for shipment. Upon receipt of the unit(s), the pickle card operator must complete the remaining portions of the receipt (the date the unit arrived and the check number), and sign the portion of the receipt certifying the receipt of the pickle card unit(s). **The agent of the common carrier must collect a check from the pickle card operator,** ensure the payment is for the correct amount, and deliver a copy of the receipt to the organization's sales agent.

**Finally, please remember** that pickle card units **cannot be drop-shipped** to a pickle card operator **by a licensed distributor.**



## Keno Progressive Jackpots and Other Large Jackpot Prizes

The decline in wagering on keno over the past several years and the competition of casino gambling from our neighbors to the east has produced an increase in the number of county/city lottery operators which are considering implementing progressive jackpots or other large jackpot prizes to attract more play.

### **PROGRESSIVE JACKPOTS**

**Regulation 35-613.09 of the County and City Lottery Regulations** permits progressive keno games provided that information describing how the game is to be conducted and any jackpot limitations have been previously filed with the Department and approved in writing. Progressive keno games are keno games with a jackpot prize payout that typically increases by a predetermined percentage or amount as each game is played. **If you intend to implement a progressive jackpot, please make certain that you have obtained the requisite approval from the Department.** Your written request for approval should include or address the following:

- **A complete description of the progressive keno game** including the base amount of the jackpot, the winning combination(s), the minimum wager required, the rate at which the progressive jackpot is incremented, and the types of wagers which contribute to the progressive jackpot.
- **Does your aggregate prize payout limit per game apply to the progressive jackpot?**
- **If the progressive jackpot is won**, will the progressive jackpot be discontinued or will it start over from a previously determined base amount?
- **How is the base amount** of the progressive jackpot and its subsequent incrementation being funded?
- **Have you obtained the approval** of the sponsoring county, city, or village to implement the progressive jackpot? If so, include a copy of the resolution or meeting minutes wherein such approval was granted.

### **LARGE JACKPOT PRIZES**

We have recently received inquiries from several county/city lottery operators regarding the feasibility of **insuring large jackpots**, for example a \$1 million ten-spot jackpot. **Regulation 35-613.11A of the County and City Lottery Regulations** states:

*Every county, city, village or lottery operator shall have sufficient funds available to pay every winner by the end of the business day following the date that such winning transaction is verified. Every winning prize shall be paid in full to the winning player and shall not be paid over a period of time or through an annuity. Such funds shall be insured or guaranteed by monies deposited into an insured account maintained by a financial institution, an irrevocable letter of credit issued by a financial institution, or such other security approved by the Nebraska Department of Revenue.*

We are currently reviewing requests which involve insuring a large jackpot prize through a third party company called **SCA Promotions, Inc. (SCA)**. Typically, under the terms of the agreement with SCA, the sponsor (lottery operator) agrees to pay a predetermined premium on each ticket wagered on the jackpot prize and is also responsible for the payment of an initial portion of the prize (sponsor deductible). The Department has previously determined that **the insurance premium is an expense of operating the lottery which would have to be accounted for in the overall expense limitation (14 percent)**. If your county/city lottery operator is already receiving the maximum amount allowed under the expense limitation as a commission for operating the game, all costs associated with insuring the large jackpot would be the responsibility of the lottery operator.

**To date the Department has not approved the insuring of a large jackpot prize through SCA Promotions, Inc. or any other third party insurance company.** However, in light of the recent interest shown by some county/city lottery operators in doing so, we are currently evaluating administratively what the scope of the Department's review of third party insurance companies should entail and the limitations, if any, which should be associated with the Department's approval.

## Update on Keno Advertising

On occasion our office receives inquiries from county/city lottery operators regarding the permissibility of **using the broadcast media to advertise their keno** operations. In 1988, Congress passed the Charity Games Advertising Clarification Act. The Act, which became effective in the spring of 1990, allows the following to be broadcast or mailed:

*an advertisement, list of prizes, or other information concerning a lottery, gift enterprise, or similar scheme...that is authorized or not otherwise prohibited by the State in which it is conducted and which is:*

- (A) conducted by a not-for-profit organization or governmental organization; or*
- (B) conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization.*

In 1990 the Department's Charitable Gaming Division sought clarification from the Federal Communications Commission (FCC) as to how the Act would affect the advertisement of a keno lottery in Nebraska when the lottery activity was not conducted by the political subdivision itself but instead was conducted on behalf of the political subdivision by a for-profit lottery operator. The FCC issued an opinion in 1991 which concluded that when a political subdivision conducts the activity with its own employees, that activity may be advertised. However, when a for-profit lottery operator does the day-to-day work of the lottery activity, the FCC concluded that the activity is no longer "conducted by" the political subdivision and, therefore, could not be advertised.

In 1995 the Nebraska Keno Operators Association requested the FCC to reexamine its former opinion. The FCC responded that in order for the advertising exemption to apply, the governmental organization must have ultimate control of the day-to-day operations of the lottery. Although it is possible for a governmental entity to contract with outside operations to assist in conducting the lottery, the governmental entity must have ultimate control with some type of system in place for the necessary control and

oversight. The Association requested clarification from the FCC as to the factors that would meet this requirement. The FCC responded that there are no set factors and each lottery must be analyzed on a case-by-case basis.

The United States Supreme Court recently rendered a decision regarding the advertising of lotteries and casino gambling in **Greater New Orleans Broadcasting Association, Inc. v. United States**. The decision relates to whether the government's ban on television and radio ads promoting casinos outside Indian reservations violates free-speech rights. We will not attempt to summarize the arguments presented by both sides; however, it is important to note that the Court reversed a Court of Appeals decision and concluded that the broadcast prohibition in 18 U.S.C. § 1304 and 47 CFR § 73.1211 (1998) violates the First Amendment.

**At this point in time we have not sought nor have we received any clarifying information from the FCC** relative to its past opinions in light of the recent Supreme Court decision. There are not any restrictions in the Nebraska County and City Lottery Act which would preclude the advertising of keno nor do we have any regulatory jurisdiction with respect to the permissibility of advertising keno. Accordingly, it would be inappropriate for our office to advise keno operations that the aforementioned FCC opinions no longer apply as a result of the Supreme Court decision. However, if we do receive clarifying information from the FCC, we will certainly make that information available to you.

## Want to Know More About Charitable Gaming?

Looking for a speaker for your next conference? Interested in starting a new gaming activity? In need of help understanding gaming requirements, rules, or forms? **CONTACT US!** We have staff members who specialize in gaming-related presentations both formal and informal. No group is too big or too small. Just give us a call and we will make arrangements to suit your group or organization needs, **(402) 471-5937**.

## County/City Lottery News Briefs

❑ **Total dollars wagered on keno for the period July 1, 1998 though June 30, 1999 were \$156,124,721.** This represents an **increase of approximately 1.5 percent** as compared to the total dollars wagered on keno for the previous twelve-month period (\$153,834,783). **Total dollars wagered on keno for the period July 1, 1999 through September 30, 1999 were \$38,551,296** which represents a **decrease of about five percent** as compared to the previous quarter, **April 1, 1999 through June 30, 1999 (\$40,561,370).**

❑ In a special election on July 13, 1999, the City of **Yutan** approved a county/city lottery. Their previous affirmative election on January 9, 1990 expired in 1998 since the keno game was inactive over 4 years. Although a few communities have expressed interest in county/city lottery activity, we are not aware of any other county, city, or village voting on the implementation of a lottery during 1999.

❑ **Fillmore County** is the only new community issued county/city lottery licenses since February 1999.

❑ The Villages of **Avoca, Maywood, Ong, Trenton,** and **Oxford** and the Cities of **Benkelman, Bridgeport, Fairfield, Hartington, and McCook** have ceased their county/city lotteries since our last publication and their licenses expired September 30, 1999.

❑ The only community licensed through September 30, 2001, that remains inactive as of this publication is the Village of **Belgrade.**

❑ The City of **Ashland** and the Village of **Wolbach** resumed their county/city lottery activities since our last publication. The City of **Ashland's** new lottery operator is **Four Sons, Inc.** The City of **South Sioux City** has a new lottery operator, **South Sioux City's Big Red Lottery Services, Ltd.,** and the new lottery operator for the Village of **Benedict** is **North Brooke Inn, Inc.** The City of **Tecumseh** has submitted the license applications for a change in their lottery operator.

❑ **The 1999-2001 license renewal application processing** has been completed. We appreciate your cooperation and patience during this hectic time for

our licensing and support staff. Using the new pre-identified renewal forms expedited our reviews and hopefully saved time for you as well.

❑ **Remember to post the original of the 1999-2001 county/city lottery license** in a visible location where each game is conducted.

❑ Periodic calls requesting the time period county/city lottery records must be kept indicate that perhaps the published **retention schedule** has not received adequate distribution. If you need a copy for your county, city, village, or lottery operator, please contact our office and request Schedule 59, County/City Lottery Records.

❑ **A new form is required to be completed and submitted** by each individual who files a Personal History Record as part of their county/city lottery license application. **The Fair Credit Reporting Act** implemented the requirement for our Authorization for Release of Information. This allows this Department to obtain necessary records to determine whether the license applicant is qualified to be licensed.

❑ **Each county, city, and village contracting with a lottery operator should insure that its lottery operator contract is in force.** During the license renewal process, we discovered several lottery operator **contracts that had expired** and the affected community had not taken any action. Prior to the contract expiring, the community and lottery operator need to negotiate and execute the appropriate new contract, renewal, extension, or if valid, assignment. **A copy of each contract and any amendments or extensions to such lottery operator contract are to be promptly provided to the Charitable Gaming Division.**

❑ **You are reminded that the Nebraska County and City Lottery Act requires license application information to be kept current.** Any changes in the information originally submitted in a license application is to be reported to the Department within **30 days** of the change. Any new businesses are to be licensed prior to the game starting at the location. And new county/city lottery workers at a location must submit their application prior to starting to work with the game.

# GAMING CALENDAR

January		April	
5	2000 Legislative Session begins	11	<b>Last Day of 2000 Legislative Session</b>
17	<b>All State Offices Closed</b> - Martin Luther King Day	28	<b>All State Offices Closed</b> - Arbor Day
30	<b>Forms 35C and 35D due</b> for period ending 12/31/99, from Class II bingo and pickle card licensees. Last acceptable postmark date is January 31st.  <b>Form 51 Tax Return and Applicable Schedules I, III, and/or IV Due.</b> Last acceptable postmark date is January 31st.	30	<b>Forms 35C and 35D due</b> for period ending 3/31/00, from Class II bingo and pickle card licensees. Last acceptable postmark date is May 1st.  <b>Form 51 Tax Return and Applicable Schedules I, III, and/or IV Due.</b> Last acceptable postmark date is May 1st.
February		May	
21	<b>All State Offices Closed</b> - President's Day	29	<b>All State Offices Closed</b> - Memorial Day
		June	
		30	<b>End of 1999-2000 Annual Reporting Period</b>

## Compulsive Gamblers Assistance

Compulsive Gambling Help Line 1-800-560-2126

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| <ul style="list-style-type: none"> <li>✓ Gamblers Anonymous (Lincoln) (402) 473-7933</li> <li>✓ Gamblers Anonymous (Omaha) (402) 978-7557</li> <li>✓ Gamblers 12 Step &amp; Family (Omaha) (402) 978-7899</li> </ul> | <ul style="list-style-type: none"> <li>✓ Family Services (Omaha) (800) 762-0868</li> <li>✓ Nebraska Council on Compulsive Gambling (Bellevue) (402) 291-0980</li> <li>✓ Gamblers Anonymous 1-800-GAMBLER (National)</li> </ul> |
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